

# STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of:

DECISION

MPA/169795

## PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone from Madison, Wisconsin on February 9, 2016. At petitioner's request Hearings scheduled for January 12, 2016 and December 15, 2015 were rescheduled.

The issue for determination is whether petitioner is eligible for payment by the MA program for a root canal on tooth #30 (a molar).

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



### Respondent:

Department of Health Services 1 West Wilson Street, Room 651 Madison, Wisconsin 53703

BY: DDS, Dental Consultant [ did not appear at the February 9, 2016 Hearing but submitted a letter dated November 9, 2015 with attachments and an e-mail dated February 5, 2016 with an attached drawing.]

Division of Health Care Access and Accountability

1 West Wilson Street, Room 272

P.O. Box 309

Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney

Division of Hearings and Appeals

#### FINDINGS OF FACT

- 1. Petitioner (35 years old) is a resident of Brown County, Wisconsin.
- 2. Petitioner's provider (N.E.W. Community Clinic of Green Bay, Wisconsin) requested Prior Authorization ["PA"] (PA # dated September 11, 2015) for MA coverage for a root canal procedure for petitioner's tooth #30 (a molar) at a total cost of \$311.74. Exhibit #2.
- 3. On September 23, 2015 DHCAA denied the PA request for a root canal procedure for petitioner's tooth #30; DCHAA sent petitioner a letter dated September 23, 2015 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of this denial. Exhibit #1A.
- 4. Petitioner's tooth #30 does not have a strong likelihood that root canal treatment will be successful (it is likely to result in tooth extraction). Exhibits #1A & #1B.

## **DISCUSSION**

In this case, as with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so.

A root canal is an endodontic service. In general, endodontic services are covered by MA. Wis. Admin. Code § DHS 107.07(1)(d) (August 2015). However, molar root canal therapy for MA recipients ages 21 and over requires PA in order to be reimbursed under MA. Wis. Admin. Code § DHS 107.07(2)(a)1. (August 2015).

Root canal therapy should only be provided when there is a strong likelihood that the treatment will be successful and definitive (i.e., that it will not later result in extraction). *ForwardHealth* Topic #2881 (found online at:

https://www.forwardhealth.wi.gov/WIPortal/Subsystem/KW/Display.aspx?ia=1&p=1&sa=15&s=2&c=525 &nt=Anterior, Bicuspid, and Molar Root Canal Therapy&adv=Y)

In this case the DCHAA dental consultant determined that the amount of tooth involved in the proposed root canal procedure on petitioner's tooth #30 means that, after the procedure, the tooth will resemble a cup with thin walls. The remaining tooth typically experiences catastrophic fracture resulting in tooth extraction. Exhibit #1B. Thus, DCHAA correctly denied PA.

It is noted that petitioner's dentist has stated that petitioner's tooth #30 "meets the requirements for adequate tooth structure." Exhibit #2. However, this is before the proposed root canal procedure, not after.

#### **CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner is not eligible for payment by the MA program for a root canal on tooth #30 (a molar).

NOW, THEREFORE, it is

#### **ORDERED**

that the petition for review herein and the same is hereby DISMISSED.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received** within 20 days after the date of this decision. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

#### APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison, Wisconsin, this 3rd day of March, 2016

\sSean P. Maloney Administrative Law Judge Division of Hearings and Appeals

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## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 3, 2016.

Division of Health Care Access and Accountability